

Ohio Ethics Commission



Ohio's Ethics Laws & Community Schools

Jennifer Hardin
Chief Advisory Attorney



Ohio Ethics Law: What?

- Created New Ethics Laws
 - Personal financial disclosure
 - Conflicts of interest laws
- Created Ohio Ethics Commission
 - Provide Assistance
- Uniform review within three government branches



Ohio Ethics Law: Who?

- All public officials and employees at every level of government:
 - elected office holders
 - public employees
 - officers and employees of community schools
- People and companies with connections to a public agency



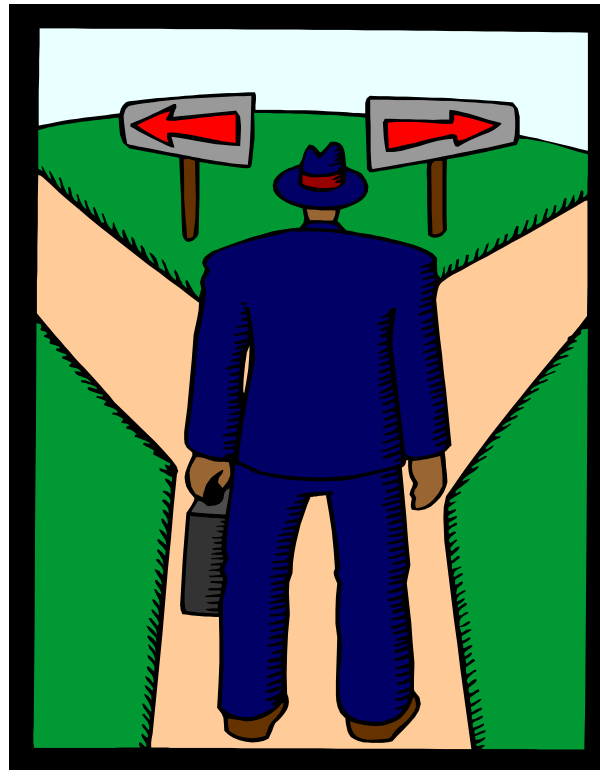
Ohio Ethics Law: Do I Have a Conflict?

- Who is affected or involved?
 - You?
 - Your family?
 - Your outside business?
 - Your volunteer activities?
- If yes, you have a potential conflict of interest





Conflict of Interest





Conflict of Interest

- R.C. 102.03(D) and (E) prohibit:
 - Use of authority or influence to secure something of value
 - Soliciting or accepting something of value
- In both cases:
 - If it could pose a substantial and improper influence in performance of duties



Conflict of Interest: Use of Position to Secure

- Voting
- Discussing
- Deliberating
- Recommending
- Reviewing
- Inspecting
- Investigating
- Deciding
- Any other action



Possible Conflicts

- Governing board member using position to secure benefit for child or spouse
- Community school employee seeking outside employment with a vendor to the school





It's okay as long as I don't benefit, right?

- Cannot solicit or use position to secure the thing of value for:
 - Self
 - Others who have a direct connection to you:
 - Family members
 - Outside Employer (public or private)
 - Business partners
 - Clients (sometimes)
 - Organizations served



Conflict of Interest Mall Example

- Spouse's family owns one of the anchor stores
- An employee of the law firm representing the developer
- Owns 5,000 shares of one of the anchor stores



Conflict of Interest: Anything of Value

- Money, checks, warrants, promissory notes
- Goods
- Promise of future employment
- Every other thing of value
- Can include:
 - Contracts, grants, other tangible benefits
 - Payment for employment, services, consulting
 - Government services
 - Financial impact of regulatory decisions and licenses
 - Gifts, entertainment, discounts



Conflict of Interest: Private Parties

- R.C. 102.03(F) prohibits:
 - Promising or giving something of value to a public employee
- Again...
 - If it could pose a substantial and improper influence in performance of the public employee's duties



Substantial and Improper

- Substantial:

- Look to the **value** of the thing

- Improper:

- Look to the **source** of the thing



Conflicts of Interest: Types of Things of Value

- Entertainment
- Home Remodeling
- Gifts of Substantial Value
- Travel, meals, lodging





Supplemental Compensation

- Public employee: cannot be compensated from anyone other than my employer for doing job duties
- Private sector parties: cannot compensate public employee for performing job duties



True or False?



True or False?



A member of a community school governing board, who is also an architect, can participate in the board's consideration of a matter affecting one of her client's.

False

True or False?

A community school administrator can accept a week-long vacation in Mexico from a vendor if she pays him \$500, which the vendor says is “fair market value” for the use of the condo and his fishing boat.



False

True or False?

A community school employee is prohibited from applying for a job with a company that is seeking to do business with the school.



True

- Unless the employee's supervisor, and legal counsel for the school, approve the employee's withdrawal from all matters affecting the potential vendor.
- Withdrawal is not always possible.

True or False?

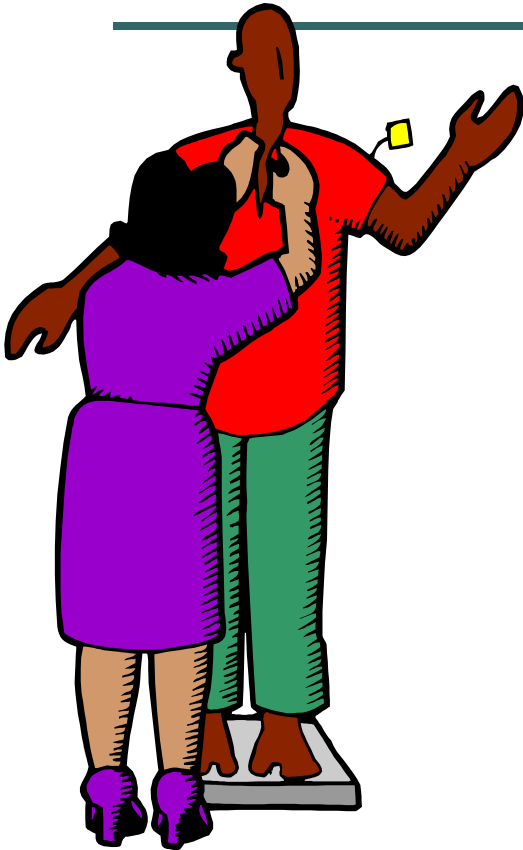


A community school governing board member who is a member of a limited liability company can participate in the board's discussion of a matter that affects a company owned by another member of the LLC.

False

- Two members of an LLC are business associates.

True or False?



It's permissible for a vendor to pay travel expenses for a community school employee if:

- It saves the school money;
- The travel is necessary; and
- The employee wears a shirt saying: "A vendor paid for me to be here today."

False

- The law almost always prohibits a vendor from paying travel expenses.
- Also prohibits the vendor from paying for entertainment expenses (golf, theater tickets, boating excursions) and meals.

True or False?



A community school employee, whose agency is a member of a national organization, has been invited to speak at the organization's annual conference. She can accept complimentary admission to the conference and the lunch provided at her speech.

True

True or False?

Because a community school is co-sponsoring an event, and underwriting part of the event's cost, some of the community school's employees can attend the event without paying the registration fee.



True

True or False?



A community school board member is prohibited from accepting contributions from contractors and vendors to a fund created for his defense in a criminal case.

True

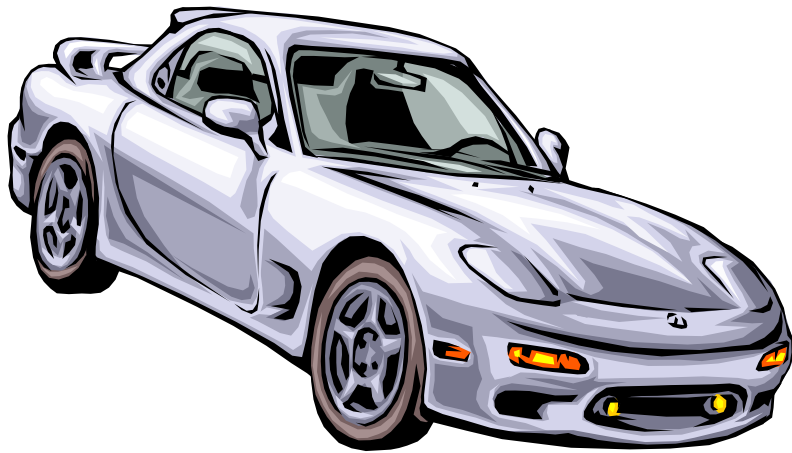
True or False?

A community school treasurer is prohibited from having a checking account in a bank that holds the school's deposits.



False

True or False?

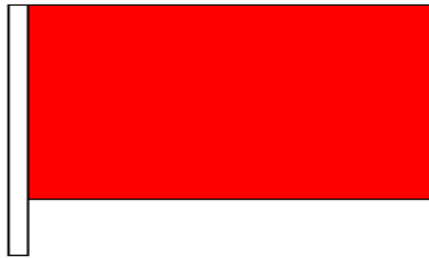


A community school employee wakes up from a sound sleep behind the wheel of this car. He doesn't know how he got there, but the title in the glove box lists him as the owner. He can accept it because he has no idea who gave it to him.

False



The Red Flag Test!



- Personal financial interests
 - Fiduciary interests, as well
- Family members' financial interests
- Business associates' financial interests
- Exceptions



Public Contracts





Public Contract Restrictions

R.C. 2921.42(A) prohibits:

- Authorization or use of authority to secure contract for official, family member, or business associate
- Having an interest in profits/benefits of contract with “connected” agency
- Profiting from approval of contract (unless contract let by competitive bidding to the lowest and best bidder)



“Authorization” or “Use of Authority to Secure Authorization”

- Voting to approve a contract
- Recommending a vendor
- Reviewing applications
- Writing bid specifications
- Filling out a purchase order
- Completing a travel expense report
- Purchasing directly, use of petty cash
- Signing a contract



Public Contracts Examples

- Can a governing board member vote on a maintenance contract to a company his father owns?
- Can a community school employee lobby the school to award a contract to a company that will use that money to buy property she owns?
- Can a community school administrator accept a job from a company that was created with money from a contract he awarded to the company?



Public Contract Exceptions

Four-Part Exception (R.C. 2921.42(C)):

- Necessary supplies/services
 - Supplies unobtainable elsewhere for the same or lower cost or “continuous course of dealing”
 - Preferential or same treatment as other customers
 - Arm’s length transaction
- Stockholding under 5% (R.C. 2921.42(B))



“All I did was get my brother a teaching job!”

- Employment is a public contract
- Hiring family is a felony
- Community school officials and employees cannot approve public contracts with family members
- Officials cannot use their authority to secure any employment for family

True or False?



True or False?

A teacher for a community school is subject to the public contract law.



True

True or False?



A community school governing board member can discuss a contract on which her parent's business has submitted a bid provided that she abstains from the board's vote to award the contract.

False

True or False?



The community school can contract with one of its employees, who owns a snow plow, to plow the school parking lot during the winter.

False

- Unless the employee can meet an exception to the law.

True or False?

A community school administrator is prohibited from seeking or accepting employment with a vendor of the school.



False

- Unless the employee is able to fully withdraw from matters affecting the vendor.
- The administrator cannot accept employment with the vendor if he or she would profit from a contract he or she authorized.

True or False?

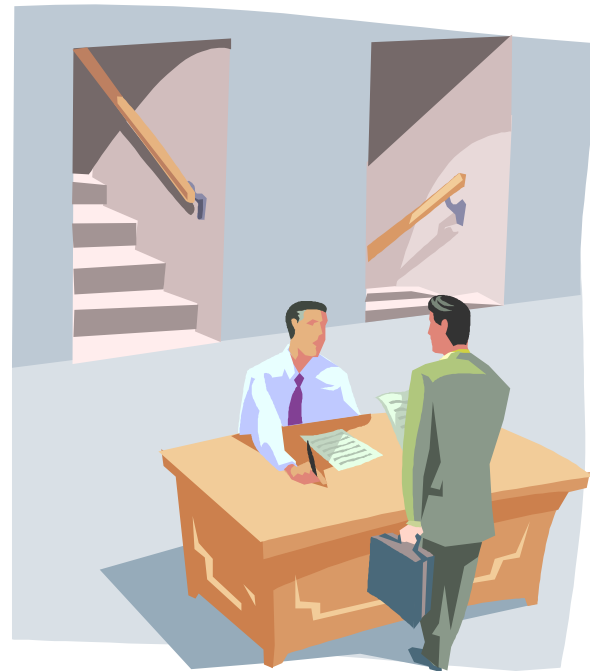
The Ethics Law prohibits two family members from working for the same community school.



False

True or False?

A newly appointed board member can seek a promotion for her son who is already an employee of the school.



False



Other Restrictions

- Revolving Door—R.C. 102.03(A)(1)
- Representation—R.C. 102.04(C)
- Confidentiality—R.C. 102.03(B)





Hmmm...where do you find the Ethics Law?



- Copy of Ethics Law
- All public officials and employees
- Within 15 days of:
 - Hire
 - Election
 - Appointment



Ohio Ethics Commission: Roles and Responsibilities

- Six commission members
- Bipartisan commission
- Members appointed by governor; confirmed by Senate
- Six-year staggered terms
- Advice
- Education
- Financial Disclosure
- Investigation
- Legislation



General Rule

Personal financial interests?
My family member's financial interests?
My business associate's financial
interests?

ETHICS ISSUE!



Call us before you act!



The Ohio Ethics Commission
8 East Long Street
10th Floor

Columbus, Ohio 43215

Phone: (614) 466-7090

Fax: (614) 466-8368

Website: www.ethics.ohio.gov